

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Government Efficiency Appropriations Committee

BILL: SB 424

INTRODUCER: Senator Fasano

SUBJECT: Cardrooms

DATE: February 2, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sumner</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	<u>Keating</u>	<u>Johansen</u>	<u>GE</u>	Favorable
3.	_____	_____	<u>GA</u>	_____
4.	_____	_____	<u>RC</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill provides that a pari-mutuel permitholder that conducted a full schedule of live racing during the preceding year may operate a cardroom on any day between the hours of 12 noon and 12 midnight.

This bill substantially amends section 849.086 of the Florida Statutes.

II. Present Situation:

A cardroom may be operated only at the location specified on the cardroom license issued by the division and such location may be only where such permitholder is authorized to conduct pari-mutuel wagering activities subject to its pari-mutuel permit. Section 849.086(2)(c), F.S., defines "cardroom" to mean a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility. Authorized games and cardrooms do not constitute casino gaming operations.

Section 849.086(2)(a), F.S., defines "authorized game" at a cardroom as a game or series of games of poker which are played in a nonbanking manner. Authorized cardroom games or series of games of poker may not exceed a \$2 bet with a maximum of three raises in any round of betting.

Up until 2003, an "authorized game" at a cardroom included "penny-ante games" as defined in s. 849.085, F.S., which includes a game or series of games of poker, pinochle, bridge, rummy, canasta, hearts, dominoes, or mah-jongg. Chapter 2003-295, L.O.F., amended s. 849.086(2)(a), F.S., to eliminate these games from the definition of "authorized game."

Dominoes, along with poker, pinochle, bridge, rummy, canasta, hearts, and mah-jongg, is still allowed to be played in a penny ante game authorized under s. 849.085, F.S., This section authorizes penny ante games to be played in residential premises and certain common areas of community associations and college dormitories and recreational rooms. For a penny ante game, the winnings of any player in a single round, hand, or game may not exceed \$10 in value.

A “banking game” is defined in s. 849.086(2)(b), F.S., as “a game in which the house is a participant in the game, taking on players, paying winners, and collecting from losers or in which the cardroom establishes a bank against which participants play.”

No person may operate a cardroom in this state unless the person holds a cardroom license issued by the Division of Pari-mutuel Wagering (division).¹ Only licensed pari-mutuel permitholders may hold a valid cardroom license.

Section 849.086(7)(b), F.S., provides that a cardroom may operate between the hours of 12 noon and 12 midnight on any day a pari-mutuel event is conducted live as a part of its authorized meet. A “meet” is defined as the “conduct of live racing or jai alai for any stake, purse, prize, or premium.”²

In addition, any permitholder who holds a valid cardroom license may operate a cardroom between the hours of 12 noon and 12 midnight on any day that live racing of the same class of permit is occurring within 35 miles of its facility, if no other holder of that same class of permit within 35 miles is operating a cardroom at such time and if all holders of the same class of permit within the 35 mile area have given written permission to the permitholder to operate the cardroom during the designated period. There are currently 17 cardrooms with the latest having opened in Hamilton County at the new Jai Alai fronton. The Department of Business and Professional Regulation reports as of November for the fiscal year 2005/2006, the total handle from the tracks and frontons was \$537,102,810 and the gross receipts for cardrooms was \$17,625,938.

In May 2004, Daytona Beach Kennel Club (DBKC) submitted a revised cardroom calendar which contended that under s. 849.086(7)(b), F.S., if at least one Saturday race occurred after 12:00 midnight, the Sunday cardroom operation would be permitted without any additional pari-mutuel events being held that day. The Department of Business and Professional Regulation (department) disagreed with this interpretation replying in part that DBKC’s proposal violated the spirit if not the letter of the law. Several dog tracks challenged this agency statement as an unadopted rule.³ The Division of Administrative Hearings ruled that the department’s letter was not an unadopted rule and the First District Court of Appeal affirmed the decision.⁴

¹ Section 849.086(5), F.S.

² Section 550.002(20), F.S.

³ *St. Petersburg Kennel Club, Inc., West Flagler Associates, LTD., Associated Outdoor Clubs, Inc., Washington County Kennel Club, Inc., Daytona Beach Kennel Club, Inc., and Southwest Florida Enterprises, Inc. vs. Department of Business and Professional Regulation, Division of Pari-mutuel Wagering*, DOAH Case No. 04-2470RU.

⁴ *St. Petersburg Kennel Club, Inc., et al. v. Department of Business and Professional Regulation, Division of Pari-mutuel Wagering*, 911 So. 2d. 1238 (1st DCA 2005)

Section 849.086(7)(c), F.S., provides that a cardroom operator must employ and provide a nonplaying dealer for each authorized card table at the cardroom. The dealers may not have any participatory interest or an interest in the outcome of the game. The providing of the dealers by a licensee shall not be construed as constituting the conduct of a banking game by the cardroom operator.

Section 849.086(8)(a), F.S., provides that a wagering system must be used at the cardrooms. Wagering systems require the house to convert all players' money to tokens or chips which are then allowed be used for wagering at the specific cardroom.

Section 849.086(13), F.S., provides that each cardroom operator shall pay a tax to the state of 10 percent of the cardroom operations' monthly gross receipts. In addition, there is an annual cardroom license fee of \$1,000 for the first table and \$500 for each additional table operated at the cardroom. Total collections for fiscal year 2004-05 on the gross receipts of cardrooms were \$4,046.977 million (an increase of over \$2.5 million from last fiscal year), while \$238,000 was collected in table license fees.

III. Effect of Proposed Changes:

Section 1. The bill amends s. 849.086(7)(b), F.S., to permit a horserace, greyhound or jai alai permitholder to operate a cardroom at the pari-mutuel facility on any day between the hours of 12 noon and 12 midnight if the permitholder conducted a full schedule of live racing or games in the preceding year.

It deletes the provisions that:

- Provides for the operation of cardrooms at a pari-mutuel facility that is authorized to accept wagers on pari-mutuel events only during its authorized meet;
- Allows the operation of a cardroom between the hours of 12 noon and 12 midnight when live racing or games are being conducted as part of the permitholder's authorized meet;
- Allows the operation of cardrooms between the hours of 12 noon and 12 midnight on any day that live racing of the same class of permit is occurring within 35 miles of its facility, if no other holder of that same class of permit within 35 miles is operating a cardroom at such time and if all holders of the same class of permit within the 35 mile area have given their permission in writing to the permitholder to operate the cardroom during the designated period. (This provision is applicable to the Jacksonville area permitholders and Tampa Greyhound Track and St. Petersburg Kennel Club.)

Section 2. The act takes effect July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

The Revenue Estimating Conference has not reviewed this bill. According to the department, the bill could potentially increase state revenue by approximately \$910,000 depending on increases in actual card room operating days.

B. Private Sector Impact:

According to the department, permitholders that operate cardrooms would likely realize an increase in card room operating days which should result in an increase in cardroom revenue.

C. Government Sector Impact:

The division anticipates that existing personnel and resources will be adequate to cover any increase in workload.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the department, the bill creates a potential dispute over cardroom operations if the term “full schedule of racing or games” contained in s. 550.002(11), F.S., is amended in the future. The bill does not specifically reference the definition of “full schedule of racing or games” contained in that section. Therefore, how the term would be interpreted relative to cardroom operations could be the subject of litigation should the pari-mutuel definition of the term be changed in the future.

The department further states that passage of this bill would resolve a dispute between the division and cardroom operators at various greyhound tracks in the state who believe that running a race or game after midnight on one day entitles them to operate a cardroom from 12 noon to 12 midnight on the next day under the current language of the statute. Currently the parties are still in disagreement over the underlying interpretation of the section.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
